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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,532	12/21/2001	Szu-Min Lin	ASP-54	5937
27777	7590	05/02/2007		
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			EXAMINER CHORBAJI, MONZER R	
			ART UNIT 1744	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/029,532

Applicant(s)

LIN, SZU-MIN

Examiner

MONZER R. CHORBAJI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-9,12,13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-9,12,13 and 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/8/07.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

This non-final action is in response to RCE/amendment received on 02/08/2007

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 4-6, 8-9, 12-13, 15, 17-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Childers et al (U.S.P.N. 5,556,607) in view of Jacobs et al (U.S.P.N. 5,667,753).

Regarding claims 1 and 9, Childers discloses a system and a method for vapor hydrogen peroxide sterilization of medical instruments (col.1, lines 13-16) that includes placing items articles into a sealed container (col.6, lines 29-35 and lines 44-48), attaching a source of sterilant to the container (figure 11:112 and 110) by flowing the sterilant through a first port and out from another port then back to the source of the sterilant (figure 11:110, 150, 120, 140 and 160) and

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after that detaching the container (col.7, lines 50-53). Childers teaches that his containers stores the sterilized items for later use (col.6, lines 29-33). One skilled in the art would recognize that Childers's container maintain the sterility of the treated instruments by keeping the interior of the container germ-free through the use of some closing means. However, Childers is silent to this limitation. For example, in the embodiment shown in figure 11, Childers does not teach how to close the inlet and the outlet orifices (figure 11:116, 124, 122 and 124) after detaching the cassette from the apparatus. However, Jacobs sterilizes medical items with vapor hydrogen peroxide (col.1, lines 12-16) and teaches placing a sigmoid scope within a container (see example 6 in columns 15-16). In example 6, Jacobs places breathable polypropylene material on the ports of the container so that the sterility of the items is maintained while hydrogen peroxide vapor enters and sterilizes the contents. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute Childers's orifice closing means with Jacobs's since by doing so the sterilant is allowed to enter through this material into the container while the sterility of the treated items is maintained after the sterilization cycle is done (Jacobs, see example 6 in columns 15 and 16).

Regarding claims 4-6, 8, 12-13, 15, 17-19 and 21, Childers teaches the following: the sterilant is vapor hydrogen peroxide (col.9, lines 15-16), the pumping system (col.8, lines 11-14) creates pressure different that creates a vapor sterilant flow into the inlet (figure 11:120) and through the outlet (figure

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11:140) and the use of baffles so that the flow path is lengthened between the inlet and the outlet (figure 11:118 and 116).

4. Claims 7, 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Childers et al (U.S.P.N. 5,556,607) in view of Jacobs et al (U.S.P.N. 5,667,753) as applied to claims 6, 15, 19 and further in view of Koubek (U.S.P.N. 4,512,951).

Regarding claims 7, 16 and 20, Childers and Jacobs uses pumping system to create pressure differential as a driving force for the vapor hydrogen peroxide; however, they do not specifically teach the use of fan. Koubek sterilizes medical items within a chamber by using vaporous hydrogen peroxide and further uses a fan (17) for distributing the vaporous sterilant. The motion of the fan creates a pressure differential between the inlet and the outlet of the sterilizer. So, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further add a fan to Childers's apparatus as taught by Koubek since such a substitution insures a uniform distribution of the inflowing hydrogen peroxide vapors within the container (Koubek, col.3, lines 63-67).

Response to Arguments

5. Applicant's arguments with respect to claims 1, 4-9, 12-13 and 15-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lin (U.S.P.N. 5,834,313) discloses a container with its ports covered with vapor sterilant permeable, microorganism impermeable.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 9:00-5:30.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GLADYS J. CORCORAN can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MRC


GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER